

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**EVAN ROCHFORD, as Personal Representative
of The Wrongful Death Estate of James Rochford, deceased,**

Plaintiff,

v.

Cause No. 15-CV-00919

**CITY OF SANTA FE, NEW MEXICO,
SANTA FE POLICE DEPARTMENT, and
OFFICER SUZANNE BRUNK**

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441(b) and 1446(a) and (b), Defendants, by and through their undersigned counsel Brennan & Sullivan, P.A. (James P. Sullivan and Sabrina R. Salvato), give Notice of Removal to this Court of the civil action filed in the First Judicial District Court for the State of New Mexico, County of Santa Fe, Cause No. D-101-CV-2015-00063, filed by Plaintiff Evan Rochford, as Personal Representative of the Wrongful Death Estate of James Rochford, deceased, and as grounds therefore state:

1. On January 12, 2015, Plaintiff filed a Complaint for Wrongful Death (“Complaint”) with the First Judicial District Court claiming relief based on state law. A copy of the Complaint is attached hereto as **Exhibit A**.

2. Summonses were issued to Defendants City of Santa Fe, City of Santa Fe Police Department and Defendant Susan Brunk. The summonses are attached hereto as **Exhibits B, C and D**.

3. Undersigned counsel entered their appearance in this matter and Santa Fe County answered Plaintiff's Complaint on February 27, 2015. A copy of the Entry of Appearance and Answer is attached hereto as **Exhibits E and F**. A copy of the jury demand filed on the same day is also attached as **Exhibit G**.

4. A Rule 16(B) Scheduling Order was issued in this matter. **Exhibits H to L** are attached hereto.

5. A Confidentiality Order was issued in the case. *See* **Exhibits M and N**.

6. Defendants Answered Plaintiff's first set of discovery and Defendant City of Santa Fe served discovery on Plaintiff. Certificates of Service are attached at **Exhibits O.1, O.2, and P**.

7. Mediation and the deposition of Defendant Brunk were scheduled and vacated. *See* Exhibits **Q, R, S, T, and U**.

8. Evan Rochford was appointed Personal Representative to the Estate of James Rochford. The petition and order approving the appointment are attached hereto as **Exhibits V and W**.

9. Defendants filed preliminary fact and expert witness lists with the Court. *See* **Exhibits X and Y**.

10. Plaintiff's filed motions for leave to amend his Complaint to add federal civil rights claims, an order granting leave to amend was filed, and Plaintiff filed his First Amended Complaint for Civil Rights Violations, Tort Claims, and Wrongful Death on October 6, 2015. The motions and order are attached as **Exhibits Z.1, Z.2, Z.2, and Z.4**. Plaintiff's First Amended Complaint is attached hereto as **Exhibit Z.5**.

11. This Notice of Removal is timely as it is filed within ten (10) days of proper service of the Amended Complaint on October 6, 2015.

12. All Defendants, by and through undersigned counsel, consent to the removal of this action.

13. Pursuant to 28 U.S.C. § 1446(d), copies of the Notice of Removal will be promptly given to all adverse parties and a copy of the Notice of Removal will be filed with the Clerk of the First Judicial District Court, County of Santa Fe, State of New Mexico.

14. The claims stated against Defendant(s) in Plaintiff's Complaint that are subject to the original jurisdiction of this Court pursuant to 28 U.S.C. 1331 and 1343(a)(3) and (4) are as follows:

- a. Count I as to Defendant Brunk, alleging Fourth and Fourteenth Amendment civil rights violations pursuant to 42 U.S.C. § 1983. *See* Exhibit Z.5, Count I.
- b. Count II as to Defendants City of Santa Fe and Santa Fe Police Department, alleging municipal and supervisory liability pursuant to 42 U.S.C. § 1983. *See* Exhibit Z.5, Count II.

15. Federal questions thus appear on the face of Plaintiff's Complaint. The Court also has supplemental jurisdiction over Plaintiff's state law claims in Counts, III and IV pursuant to 28 U.S.C. § 1367, as these claims are so related to the federal question claims which this Court has original jurisdiction over that they form part of the same case or controversy under Article III of the U.S. Constitution. *See* Exhibit Z.5, Claims III and IV.

16. Pursuant to Rule 81.1(a) of the Local Rules of the United States District Court for the District of New Mexico, Defendants will file a Notice of Filing of State Court Record and

copies of the pleadings filed in the First Judicial District for the State of New Mexico, County of Santa Fe, Cause No. D-101-CV-2015-00041, within twenty-eight (28) days of filing this Notice of Removal. A Civil Cover Sheet is attached as **Exhibit AA**.

Respectfully submitted,

BRENNAN & SULLIVAN, P.A.

By: /s/ Sabrina Rodriguez Salvato
Sabrina Rodriguez Salvato
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Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of October, 2015, I filed the foregoing electronically through the CM/ECF system, and served a true and accurate copy of the same via U.S. Mail to the following:

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By: /s/ Sabrina Rodriguez Salvato
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